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DEPUY ORTHOPAEDICS, INC.

8 **UNITED STATES DISTRICT COURT**

9 **NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION**

11 FRANK TOTH,

12 Plaintiff,

13 vs.

14 DEPUY ORTHOPAEDICS, INC.,  
15 THOMAS P. SCHMALZRIED, M.D.  
A PROFESSIONAL CORPORATION,  
and DOES 1 through 20, inclusive,

16 Defendants.

CASE NO. 4:11-CV-01728-CW

**STIPULATION TO STAY  
PROCEEDINGS**

[Filed concurrently with [Proposed] Order]

*Hon. Claudia Wilken*

Action Filed: March 9, 2011  
Trial Date: None Set

19 TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

20 The parties to this action, by and through the undersigned counsel, stipulate to stay all  
21 proceedings in this case pending resolution of a motion that is currently before the Judicial Panel  
22 on Multidistrict Litigation, seeking establishment of a multi-district litigation ("MDL")  
23 proceeding, coordinating all federal cases (like this one) in which plaintiffs allege that they  
24 suffered personal injuries as a result of being implanted with a Pinnacle Acetabular Cup System  
25 ("Pinnacle Cup System") manufactured by defendant DePuy Orthopaedics, Inc. While Plaintiffs  
26 intend to file a remand motion in the MDL proceeding on the basis that they believe this action  
27 was improperly removed to Federal Court, they agree with Defendants that because an MDL  
28 proceeding will likely be created and this case will likely be transferred to it, a stay of this action

1 will preserve the resources of the Court and all the parties involved. All parties agree that a stay of  
2 proceedings is necessary and appropriate to achieve the judicial economies that underlie 28 U.S.C.  
3 § 1407 and that the burden of duplicative litigation weighs heavily in favor of staying proceedings  
4 pending MDL transfer.

5 The parties further stipulate that all deadlines in the above-captioned matter, including any  
6 deadlines relating to a potential remand motion and any outstanding responsive pleadings, are  
7 extended until 30 days after the first Status Conference set in the MDL proceeding (or 30 days  
8 after the Panel issues an Order denying an MDL).

9 For the foregoing reasons, the parties respectfully request that the Court grant the  
10 stipulation to stay all proceedings in this action pending resolution of the motion to create a  
11 Pinnacle Cup System MDL proceeding.

12 Respectfully submitted,

13 DATED: April 28, 2011

SEEGER SALVAS LLP

14  
15 By: /s/ Brian Devine

Kenneth Seeger

Brian Devine

Attorneys for Plaintiff FRANK TOTH

16  
17  
18 DATED: April 28, 2011

YUKEVICH CALFO & CAVANAUGH

19  
20  
21 By: 

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1 DATED: April 28, 2011

SEDGWICK LLP

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By: /s/ Wendy Tucker

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Wendy Tucker

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Kelly Savage Day

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Attorneys for Defendant THOMAS P.

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SCHMALZRIED, M.D.

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**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 355 South Grand Avenue, Fifteenth Floor, Los Angeles, California 90071-1560.

On April 28, 2011, I served true copies of the following document(s) described as **STIPULATION TO STAY PROCEEDINGS** on the interested parties in this action as follows:

Kenneth M. Seeger  
Brian J. Devine  
SEEGER • SALVAS LLP  
455 Market Street, Suite 1530  
San Francisco, CA 94105

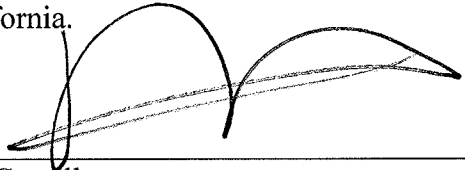
Attorneys for Plaintiff  
FRANK TOTH

T: (415) 981-9260  
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**BY CM/ECF** for parties that are CM/ECF participants. Service is being made electronically on those parties on the attached list that are registered users of the Court's Electronic Case Filing System.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on April 28, 2011, at Los Angeles, California.

  
\_\_\_\_\_  
Deanna Castellanos